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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,918	10/09/2003	Joseph L. Johnson	29192.00	7734

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EXAMINER	
NATNITHITHADHA, NAVIN	
ART UNIT	**PAPER NUMBER**
3736	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	**Application No.** 10/681,918	**Applicant(s)** JOHNSON, JOSEPH L.	
	Examiner Navin Natnithithadha	**Art Unit** 3736	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 28 September 2005.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1,5,6,8,9 and 23-26 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1,5,6,8,9 and 23-26 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 09 October 2003 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Claims 1, 6, and 9 have been amended. Claims 2-4, 7, and 10-22 have been cancelled. Claims 23-26 have been added. Claims 1, 5, 6, 8, 9, 23-26 are pending.

Claim Objections

2. Claim 1 is objected to because of the following informalities:

In line 9, "repsectively" is a typographical error and needs to be amended to - - respectively - -.

3. Claim 26 is objected to because of the following informalities:

It appears claim 26 should be dependent on claim 25 and not claim 1 because claim 26 states "said timing circuit" which is defined in claim 25 and not claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 6, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Froehlich et al, US 5,551,419 A (hereinafter referred to as "Froehlich"), in view of Truschel et al, US 6,360,741 B2 (hereinafter referred to as "Truschel"), and further in view of Harvie, US 2003/0189492 A1 (hereinafter referred to as "Harvie").

Claims 1 and 23: Froehlich teaches a CPAP system comprising:

a generator ("blower") 12;

a first sensor ("air flow sensor") 15 "which responds to air flow variations between inspiration and expiration" (see col. 4, lines 46-51);

a second sensor ("air pressure sensor") 16 (see col. 4, lines 53-45);

a controller unit ("controller") 17 responsive to "inspiration and expiration" signals provided by the first sensor 15 (see col. 4, lines 41-64), processing the signals and comparing the signals with a "threshold level" to determine whether there is an apneic event and/or whether the mask is "removed" or a "gross leak occurs" (see col. 5, lines 15-55, and col. 11, lines 8-30); and

a feedback means ("line" to provide a feedback signal) 19 (see col. 4, line 39).

Froehlich teaches an alarm generation means consisting of an audio device ("an alarm may be sounded to alert the patient") (see col. 11, lines 23-25). Froehlich does not teach a remotely-controlled transmitter means and an alarm generation means movably located proximal to the patient or removably attachable to the patient's head. However, Truschel teaches an alarm generation means ("alarm") 48 that "communicates with control unit 38 to output a human perceptible warning, such as an audible sound or visual light, to wake and/or warn the user or caregiver..." and "can be provided at locations remote and external to pressure generating system 32 and can communicate with the control unit 38 wirelessly" (see col. 6, lines 11-23). In addition, Harvie teaches a variety of ways to attach a wireless alarm generation means (vibration, audible, visual) 9 proximal to a patient or removably attachable to the patient's head (see figs. 2A-2H and paragraph 95). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Froehlich in order to effectively alert the patient (see Froehlich, col. 11, lines 23-24).

Claim 6, 25, and 26: Frohelich does not teach a timing circuit as claimed. However, Truschel teaches a "touch sensitive reset switch" 23 which acts "much like a snooze button" on an alarm clock and delays reactivation of the alarm means for a pre-determined amount of time (see paragraph 95), thus controlling the frequency of alarm signal. It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Froehlich in order to effectively alert the patient (see Froehlich, col. 11, lines 23-24).

Claim 24: Frohelich does not teach a humidifier. However, Truschel teaches a CPAP system including a humidifier (see col. 5, lines 15-18). Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Frohelich because Truschel suggests that "various components may be provided in or coupled to the [CPAP system]" (see col. 5, lines 14-18).

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Froehlich et al, US 5,551,419 A (hereinafter referred to as "Froehlich"), in view of Truschel et al, US 6,360,741 B2 (hereinafter referred to as "Truschel"), and further in view of Harvie, US 2003/0189492 A1 (hereinafter referred to as "Harvie"), as applied to claim 1 above, and further in view of over Russek, US 5,534,851 A (hereinafter referred to as "Russek").

Claim 5: Neither Truschel nor Harvie explicitly teach using the transmitter and receiver uses radio frequency signals. However, it is well known in the art to use radiofrequency (RF) signals between a controller and a remote alarm means. For example, Russek teaches a communication between an "alarm signal pulse generator" 12 and "master alarm control" 14 uses "RF" signals (see col. 7, lines 53-61). Therefore, it is obvious to one of ordinary skill in the art at the time the invention was made to modify wireless signals to be RF signals in order to relay a signal from a controller to a alarm device.

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Froehlich et al, US 5,551,419 A (hereinafter referred to as "Froehlich"), in view of Truschel et al, US 6,360,741 B2 (hereinafter referred to as "Truschel"), and further in view of Harvie, US 2003/0189492 A1 (hereinafter referred to as "Harvie"), as applied to claim 1 above, and further in view of over Lingo, Jr. et al, US 6,626,845 B2 (hereinafter referred to as "Lingo").

Claims 8 and 9: Froehlich does not calibrating the air pressure sensor 16 as claimed. However, calibration of pressure sensors is well known in the art. For example, Lingo teaches calibration of air flow sensor 31 and pressure transducer 24 prior to patient testing using known air flow values and other standards common to the industry (see col. 5, lines 3-6). It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Froehlich's invention to calibrate sensor board 80 in order to have accurate flow and pressure measurements.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navin Natnithithadha whose telephone number is (571) 272-4732. The examiner can normally be reached on Monday-Friday, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Navin Natnithithadha
Patent Examiner
GAU 3736
14 October 2005

ROBERT L. NASSER
PRIMARY EXAMINER